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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/783,366

02/14/01

BROCKLEY

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1429.002

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PM82/0918

EXAMINER

DAVIS, C

ART UNIT

PAPER NUMBER

3628

DATE MAILED:

09/18/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/783,366	Applicant(s) BROCKLEY ET AL.	
	Examiner Cassandra Davis	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the object and picture relating to baseball, basketball, football, hockey, soccer, tennis, skiing, and wrestling must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11 and 17-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Feher, U. S. Patent 861,822. Feher teaches an embossed picture comprising a frame 1 having a rebate or rear recess *a*, a transparent cover sheet 7, a foundation plate 2 having a facing of paper 4 mounted thereon, and an embossed or three-dimensional member 6. The plate 2, embossed or three-dimensional member 6, and sheet 7 are retained within the recess of the frame 1 by a suitable backing plate 9. The plate is held within the frame by tacks 10. The peripheral edges of the sheet 7 lie flush with the front surface of the paper 4 and are held in engagement therewith by molding 8 of frame 1.

4. With respect to claims 2-4 and 18-20, since the object is not positively claimed in combination with the sports commemorator, they have not been given patentable weight.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11-16 and 25-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feher in view of Rand, U. S. Patent 405,678. Rand teaches a three-dimension picture comprising a frame **A** having a rebate or rear recess, a transparent cover **C**², a backing plate **B** having a picture (lines 45-50) thereon, and a three-dimensional object (bird). It would have been obvious to one having ordinary skill in the art to provide a picture on the backing plate that corresponds with the three-dimensional object to enhance the appearance of the display.

7. With respect to claim 13, since the applicant does not disclose that constructing the picture in the form of a photograph solves any stated problem or is for any particular purpose, it appears to providing any suitable picture in the background as taught by Rand would perform equally well.

8. With respect to claims 14-16, 29-31, and 33-35, since the applicant does not disclose that displaying the object in the form of a motor sports, fishing, or sporting

Art Unit: 3628

events solves any stated problem or is for any particular purpose, it appears displaying any suitable memorabilia would perform equally well.

9. Claims 14-16, 29-31, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feher in view of Rand as applied to claim 1, 17, and 32 above, and further in view of Hickey, Jr., U. S. Patent 5,845,778. Hickey teaches a hat display structure comprising a frame 26, a front transparent panel 14, a hat 24, plaque 20 and a backing 10. The transparent panel 14 having protuberance 22 and 18 adapted to conform in shape to the hat and plaque. Hickey teaches that the transparent panel is formed in a manner to conform to the item of memorabilia being displayed such as an athletic hat or cap having a bill. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the display device taught by Feher and Rand to display sports memorabilia as disclosed by Hickey as an obvious matter of design.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 703-308-2223. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Art Unit: 3628

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



Cassandra Davis
Primary Examiner
Art Unit 3628

CD
September 14, 2001